Reg. No. K. 107

# KERALA GAZETTE

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

**Vol. XIII] Trivandrum, Friday 12th January 1968 / 22nd Pousa 1889 [No. 7**

## KERALA LEGISLATURE SECRETARIAT

### NOTIFICATION

No. 249|LA7|1968. *Dated, Trivandrum, 12th January 1968.*

The following Bill together with the Statement of Objects and Reasons, is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

V. P. N. Nambudiri,
*Secretary,*
*Legislative Assembly.*

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM. 1968

# THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS (AMENDMENT) BILL, 1968

A

BILL

*further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951, and for certain matters connected therewith.*

*Preamble.*—WHEREAS it is expedient further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951, for the purpose hereinafter appearing and for certain matters connected therewith;

BE it enacted in the Eighteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1968.

2. *Substitution of new section for section 102.*—For section 102 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951) (hereinafter referred to as the principal Act), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), the following section shall be substituted, namely:—

"102. *Construction of reference to the Board, President or Commissioner.*—Any reference to the Board or its President or a Commissioner thereof contained in any enactment in force in the State of Kerala or in any notification, order, scheme, rule, form or bye-law issued or made under any such enactment and in force in the State, shall be construed,—

(a) in the case of a religious institution included in the list published under section 38 or over which no Area Committee has jurisdiction, as a reference to the Deputy Commissioner appointed under this Act;

(b) in the case of a religious institution over which an Area Committee has jurisdiction, as a reference to the Area Committee.".

3. *Validation.*—Notwithstanding any judgment, decree or order of any court to the contrary, the exercise or purported exercise of any power conferred, or the discharge or purported discharge of any duty imposed, on the Board or its President or any Commissioner thereof, by or under any enactment, notification, order, scheme, rule, form or bye-law referred to in section 102 of the principal Act, by a Deputy Commissioner or an Area Committee before the commencement of this Act, shall be deemed to be, and to have always been,

valid as if the provisions of the said section, as amended by this Act, had been in force at all material times when such power was exercised or duty was discharged.

*Explanation.*—For the purposes of this section, the terms "Board", "Deputy Commissioner" and "Area Committee" shall have the meanings respectively assigned to them in the principal Act.

## STATEMENT OF OBJECTS AND REASONS

According to section 102 of the Madras Hindu Religious and Charitable Endowments Act, 1951, any reference to the Board constituted under the Madras Hindu Religious Endowments Act, 1926, or its President or a Commissioner thereof contained in any enactment in force in the State of Madras or in any notification, order, scheme, rule, form or bye-law made under any such enactment and in force in the State, shall, on and from the commencement of the 1951 Act, be construed as a reference to the Commissioner appointed under the 1951 Act. While disposing of O.P. 413 of 1963, the High Court of Kerala has held that in the light of the above provision, the Commissioner alone and not the Area Committee or any other authority could exercise any power under any of the provisions of the schemes which were settled by the said Board. Government consider that it will not be possible for the Commissioner to exercise the powers by himself in all such cases and that it will not be practicable to amend all the schemes. It is therefore proposed to amend the said section 102 so that the Deputy Commissioner or Area Committee having jurisdiction over the religious institution concerned may exercise the powers.

2. Till the judgment in O.P. No. 413 of 1963 was pronounced, the powers conferred and duties enforced on the Board or its President or a Commissioner thereof were being exercised by the Deputy Commissioner or Area Committee, as the case may be. In view of the judgment, all such exercise of powers and discharge of duties by the Deputy Commissioner or the Area Committee have become invalid. It is therefore proposed to validate such actions taken by the Deputy Commissioner and the Area Committee.

3. The Bill is intended to achieve the above objects.

P. R. KURUP

GOVERNMENT OF KERALA
1968

Reg. No. K. 107

# KERALA GAZETTE

## EXTRAORDINARY

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## KERALA LEGISLATURE SECRETARIAT

NOTIFICATION

No. 248-LA4|68. *Dated, Trivandrum, 12th January 1968.*

The following Bill together with the Statement of Objects and Reasons, and the Memorandum regarding Delegated Legislation is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Legislature Secretariat,
Trivandrum.

V. P. N. Nambudiri
*Secretary,*
*Legislative Assembly.*

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**L. A. Bill No. 4 of 1968.**

# THE KERALA CATTLE TRESPASS (AMENDMENT) BILL, 1968

*A*

*BILL*

*further to amend the Kerala Cattle Trespass Act, 1961.*

*Preamble.*—WHEREAS it is expedient further to amend the Kerala Cattle Trespass Act, 1961, for the purpose hereinafter appearing;

BE it enacted in the Eighteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Cattle Trespass (Amendment) Act, 1968.

2. *Amendment of section 5.*—For sub-section (3) of section 5 of the Kerala Cattle Trespass Act 1961 (26 of 1961), the following sub-sections shall be substituted, namely:—

"(3) The pay and allowances, discipline and conduct and other conditions of service of a pound-keeper appointed by a local authority under sub-section (1) shall,—

(a) where such local authority is a Municipal Corporation or a Municipal Council or a Panchayat, be the same as those applicable to officers or servants of such Municipal Corporation or Municipal Council or Panchayat, as the case may be, of the same rank as that of the pound-keeper;

(b) in other cases, be such as may be prescribed by rules made by the Government under this Act.

(4) If any question arises as to whether any officer or servant of a Municipal Corporation or a Municipal Council or a Panchayat is of the same rank as that of the pound-keeper, such question shall be referred to the Government, whose decision thereon shall be final.".

## STATEMENT OF OBJECTS AND REASONS

Section 5(3) of the Kerala Cattle Trespass Act, 1961 provides that every pound-keeper appointed by a local authority may be suspended or removed by that authority. It is found from experience that for exercising effective control over the pound-keepers, it is necessary to vest the power to take disciplinary action against them in the Executive Officer of the local authority concerned as in the case of other employees of the local authority. The Bill is intended to achieve the above object.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to substitute two new sub-sections for sub-section (3) of section 5 of the Kerala Cattle Trespass Act, 1961. Clause (b) of the new sub-section (3) empowers the Government to make rules prescribing the pay and allowances, discipline and conduct and other conditions of service of a pound-keeper appointed by a local authority other than a Municipal Corporation or a Municipal Council or a Panchayat. This delegation is of a normal character.

T. K. DIVAKARAN